

**DEPARTMENT OF HOMELAND SECURITY**

**CUSTOMS AND BORDER PROTECTION**

**USCBP-2008-003**

**CBP Dec. No. 08-44**

**The Electronic System for Travel Authorization: Mandatory Compliance Required  
for Travel under the Visa Waiver Program**

**AGENCY:** Customs and Border Protection, DHS.

**ACTION:** General notice.

**SUMMARY:** The Department of Homeland Security (DHS) announces that, beginning [INSERT DATE THAT IS 60 DAYS FROM DATE OF PUBLICATION IN THE FEDERAL REGISTER], all nonimmigrant aliens traveling to the United States under the Visa Waiver Program (VWP) must obtain an approved travel authorization from the Department's Electronic System for Travel Authorization (ESTA). To comply with ESTA, VWP travelers must provide electronically to U.S. Customs and Border Protection (CBP) the information currently collected on the I-94W Nonimmigrant Alien Arrival/Departure (Form I-94W) through the CBP ESTA website and receive authorization to travel before embarking on travel to the United States.

**DATES:** Nonimmigrant aliens traveling to the United States under the VWP on or after [INSERT DATE 60 DAYS FROM DATE OF PUBLICATION IN THE FEDERAL REGISTER] are required to obtain travel authorization through ESTA.

**ADDRESSES:**

- To apply for travel authorization under ESTA, visit the website:  
<https://esta.cbp.dhs.gov/>.
- For additional information on ESTA, visit the website: <http://www.cbp.gov/esta>.

**FOR FURTHER INFORMATION CONTACT:** Beverly Good, Office of Field Operations, [CBP.ESTA@dhs.gov](mailto:CBP.ESTA@dhs.gov) or (202)-344-3710.

## **SUPPLEMENTARY INFORMATION:**

### **Background**

Citizens and eligible nationals of participating Visa Waiver Program (VWP) countries may apply for admission to the United States at a U.S. port of entry for a period of 90 days or less for business or pleasure without first obtaining a nonimmigrant visa, provided that they are otherwise eligible for admission under applicable statutory and regulatory requirements. See 8 CFR 217. The countries which are currently eligible to participate in the VWP are listed in 8 CFR 217.2(a).<sup>1</sup>

Section 711 of the Implementing the Recommendations of the 9/11 Commission Act of 2007 (9/11 Act) requires the Secretary of Homeland Security, in consultation with the Secretary of State, to develop and implement a fully automated electronic travel authorization system. Section 711 requires that this system collect such biographical and other information that the Secretary of Homeland Security determines necessary to evaluate, in advance of travel, the eligibility of the alien to travel to the United States, and whether such travel poses a law enforcement or security risk. Section 711 also requires the Secretary of Homeland Security to publish a notice in the **Federal Register** no less

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<sup>1</sup> Further details regarding the VWP are contained in the background section of the June 9, 2008 interim final rule, at 73 FR 23440 and on the website [www.cbp.gov/esta](http://www.cbp.gov/esta).

than 60 days before DHS implements ESTA as a mandatory program. Pub. L. No. 110-53, Title VII, § 711(d)(2); 8 USC 1187 note.

On June 9, 2008, DHS published an interim final rule in the **Federal Register** (73 FR 23440) establishing the ESTA program for aliens traveling to the United States under the VWP.<sup>2</sup> As required under section 711 of the 9/11 Act, the interim final rule provided that ESTA would be implemented as a mandatory program 60 days after publication of a notice in the **Federal Register**. See 8 CFR 217.5(g). This notice satisfies the requirements of the 9/11 Act and the interim final rule.

ESTA is designed to improve the security of the VWP by requiring that nonimmigrant aliens traveling to the United States under the VWP provide biographical information and answer VWP travel eligibility questions before departing for the United States. Each approved ESTA generally is valid for a period of two years, such that an alien may travel to the United States repeatedly within a two-year period without obtaining another ESTA. Travelers whose ESTA applications are approved, but whose passports will expire in less than two years, will receive an ESTA that will be valid until the passport's expiration date. Travelers from countries that have not entered into agreements relating to passport validity for purposes of return of the traveler to his or her home country will not be issued an ESTA that will remain valid more than six months before to the expiration of his or her passport. For more information about ESTA, please refer to the interim final rule published in the **Federal Register** on June 9, 2008, at 73 FR 32440.

### **Implementation Notice**

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<sup>2</sup> The comment period for the interim final rule expired on August 8, 2008. CBP is in the process of analyzing the comments received.

This notice announces that all nonimmigrant aliens traveling to the United States under the VWP on or after [INSERT DATE 60 DAYS FROM DATE OF PUBLICATION] must obtain travel authorization under ESTA prior to embarking on an air or sea carrier for travel to the United States. DHS continues to recommend that VWP travelers obtain travel authorizations as soon as they begin to plan a trip to visit the United States, in order to facilitate timely departures.

Date: November 7, 2008

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Michael Chertoff,  
Secretary.

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